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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,488	10/27/2003	Jean-Marc Dubois	DUBOIS - 1	4275
25889	7590	03/14/2006	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			ELOSHWAY, NIKI MARINA	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/694,488

Applicant(s)

DUBOIS, JEAN-MARC

Examiner

Niki M. Eloshway

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5 and 10 is/are rejected.
- 7) ☒ Claim(s) 3, 6-9 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/27/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.,

3. Claims 1, 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (U.S. 2,755,955) in view of Shiotani (U.S. 4,630,745). Gordon teaches a collapsible container having a bottom 10 first and second lengthwise side walls 13 and 14, first and second crosswise sidewalls 11 and 12 and a top end frame 15. The device to secure the crosswise side walls in place is the tab shown at 49 in Figure 4. Gordon does not teach that the container is made of plastic. Shiotani teaches that it is known to make a collapsible container from plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Gordon being made of plastic, as taught by Shiotani, in order to give the container sufficient strength while reducing the overall weight.
4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (U.S. 2,755,955) in view of Shiotani (U.S. 4,630,745), as applied to claim 2 above, and further in view of Muise, Jr. (U.S. 6,354,487). The modified container of Gordon discloses the claimed invention except tab extending through the top end into a bottom recess in the bottom of a container that is set onto it. Muise, Jr. teaches that it is known to form a side wall with tabs that extend through the top end into a bottom recess in the

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bottom of a container that is set onto it. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Gordon with the tab extending through the top end into a bottom recess in the bottom of a container that is set onto it, as taught by Muise, Jr., in order to prevent lateral movement of one container with respect to another while in a stacked arrangement.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (U.S. 2,755,955) in view of Shiotani (U.S. 4,630,745), as applied to claim 1 above, and further in view of Inayama (U.S. 4,863,056). The modified container of Gordon discloses the claimed invention except that it has a continuous tab on each wall and not two tabs. Inayama teaches that it is known to form a crosswise side wall with two tabs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Gordon with the continuous tab being replaced by two spaced tabs, as taught by Inayama, in order to use less material when manufacturing the container.

#### *Allowable Subject Matter*

6. Claims 3, 6-9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited for the container structure.

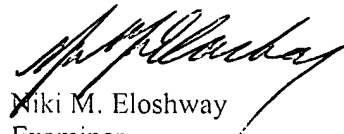
8. THIS ACTION IS NON-FINAL.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is 571-272-4538. The examiner can normally be reached on Thursdays and Fridays 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Niki M. Eloshway  
Examiner  
Art Unit 3727

nme